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JAN 26 2023  
Monica Sanisal / *[Signature]*  
Administration Dept.  
Admin. Asst. 01-26-23

GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAŇ PRUTEKSIÓN LINA'LA' GUÁHAN

LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM  
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

**JAN 25 2023**

Kazhakuttam K. Vikraman  
General Manager  
Tristar Terminals Guam, Inc.  
P.O. Box 8210  
Agat, Guam 96928

RE: Notice of Violation, Order of Compliance, and Administrative Penalty Order  
(NOV/OC/APO) No. SW 23-004

Hafa Adai Mr. Vikraman:

You are hereby advised that this Notice of Violation/Order of Compliance/Administrative Penalty Order No. SW23-004 is being issued to you as the General Manager of Tristar Terminals Guam, Inc. (Respondent) for solid waste and underground storage tank violations found at your facility located at the Port Authority of Guam Cabras Terminal F1 Pier in the municipality of Piti, Guam.

The Guam Environmental Protection Agency (Guam EPA) is responsible for implementing and enforcing the Solid Waste Management and Litter Control Act (SWMLC), Chapter 51 of Title 10, Guam Code Annotated (GCA), the Underground Storage of Regulated Substances Act, as amended, Chapter 76 of Title 10 GCA, and Chapter 50 of Title 22 Guam Administrative Rules and Regulations (GAR).

This NOV/OC is based on a Compliance Evaluation Inspection (CEI) conducted on January 8 and 12, 2023 as a result of a 911 Dispatch report of a release of petroleum fuel at your facility.

On January, 8, 2022, Roland Gutierrez, the Acting Air and Land Programs Administrator, from Guam EPA conducted a site investigation in Piti at the Tristar Terminal at the F1 Pier at Port Authority of Guam due to a 911 Dispatch report of a fuel release into the water. The investigation revealed the release of an unknown amount of used oil consisting of fuel oil, diesel and jet fuel. Mr. Gutierrez met with Mr. Roland Latag, the Terminal Supervisor, who stated that the release was from the former oil water separator that was now being used as a storage tank or slop tank for the spilled fuel from ship to shore transfer operations

Mr. Latag stated that the slop tanks capacity was 5,000 gallons and had been pumped the previous day and what remained in the tank was the sludge and some residual petroleum fuel. Mr. Latag surmised that the weight of the water filling the tank pushed the residual fuel from the tank out in a crack at the side or bottom of the tank.

After meeting with Mr. Latag, the Guam EPA representative met with MST1 Ramon Calvo from the United States Coast Guard. MST1 Calvo estimated the release to be around 100 gallons of

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petroleum fuel. The tank was full of water to the top of the tank and was overflowing and the rain had inundated the secondary containment area which had overfilled the north side of the berm. The tank was later pumped out by a Unitek Environmental Guam (UEG) vacuum truck. The vacuum Trucks capacity is 2000 gallons and had to make multiple runs to empty the tank and secondary containment area.

On January 12, 2022, Mr. Gutierrez conducted a follow up inspection of the site to view the site when it was not flooded and raining. During the inspection, Mr. Gutierrez was again accompanied by Mr. Latag. The inspection revealed an approximately 4 inch by 2 foot crack on the top of the slop tank cover on the secondary containment area. Mr. Latag now believes the leak may be from this crack on the cover portion of the slop tank's secondary containment area. Photos of the crack on the secondary containment area and the rusted cover of the slop tank were taken.

A Guam EPA detailed compliance evaluation inspection report and photo evidence collections of the investigation conducted at the site are enclosed.

### **NOTICE OF VIOLATION**

Based on the investigation, the Respondent violates the following sections of the Guam Solid Waste Management and Litter Control Act, Chapter 51 of Title 10 GCA, Chapter 76 of Title 10 GCA, and Chapter 50 of Title 22 GAR.

1. "It shall be unlawful for any person to violate any provision of this Chapter or any rule, regulation, standard, or order issued under this Chapter." 10 GCA §51110(a)
  - *As described in this report, the Respondent violated the Solid Waste Management and Litter Control provisions.*
2. "It shall be unlawful for any person to place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter." 10 GCA §51110(a)(3).
  - *The Respondent allowed the placement of solid waste (petroleum fuel consisting of diesel, jet fuel and fuel oil) on public property by allowing the release of petroleum fuel by not adequately maintaining the integrity of the concrete of either the slop tank or the secondary containment area of the slop tank or both. The lack of adequate inspection and maintenance of the integrity of the slop tank or the secondary containment of the slop tank allowed the release of petroleum fuel on to public property, specifically, the waters of Guam, contrary to the provisions of this Chapter.*
3. "Except as otherwise provided in this Section, each owner of an underground storage tank (UST) shall notify the Agency in writing and shall specify the tank's age, size, type, location, and use." §76105(a)
  - Tristar Terminals failed to notify Guam EPA of the existing UST.
4. "From the effective date of this Chapter until the effective date of new UST standards enacted hereunder, all new and existing USTs shall: prevent release of stored regulated

substances due to corrosion or structural failure for the operational life of the tank.”  
§76106(a)

- Tristar Terminals failed to prevent a release of regulated substances due to a structural failure of the tank.

### **ORDER OF COMPLIANCE**

Based on the violations cited above, Guam EPA hereby requires the Respondent to perform the following remedial measures within the time frames stated below from the date of receipt of this Order:

1. Immediately cease using the slop tank or secondary containment area of the slop tank to store petroleum fuel;
2. Prior to the next ship to shore fuel transfer operation, submit to Guam EPA a plan of how and where the residual spilled fuel from the ship to shore fuel transfer will be collected and stored prior to its removal by Unitek Environmental Guam;
3. Prior to using the current slop tank and secondary containment area for the storage of petroleum fuel, Tristar Terminals shall repair and upgrade the existing UST system in accordance with §50121, Chapter 50 Title 22 GAR or permanently close the tank.

Nothing in this Order of Compliance limits the ability of Guam EPA to enforce any provisions of applicable Guam laws and regulations. Guam EPA does not waive any rights or remedies available to it. Failure to comply with this Compliance Order may subject you to additional administrative, civil, or criminal penalties.

### **ADMINISTRATIVE PENALTY ORDER**

In addition to this Notice of Violation/Order of Compliance, the Administrator of Guam EPA, pursuant to 10 GCA §§ 51115 (b) and (e), 10 GCA §§76124(a) and (c) hereby imposes an administrative penalty.

The maximum administrative penalty for solid waste is one thousand dollars (\$1,000.00) per day per solid waste violation or one thousand dollars (\$1,000.00) for one (1) violation of Sections 51110(a)), (3) for one (1) day beginning and ending on January 8, 2023.

The maximum administrative penalty for UST Notification and use of substandard tank is sixteen thousand dollars (\$16,000.00) per day, per UST violation, or thirty-two thousand dollars (\$32,000.00) for two (2) violations of Sections 76105(a) and 76106(a) for one (1) day.

The Administrator also considered the following factors in determining the administrative penalties:

1. No previous Solid Waste violations with Guam EPA;
2. Sense of urgency and Good Faith in stopping any further release of petroleum;
3. The inability to clean up the released petroleum already on public property, specifically, Apra Harbor;
4. The **gross negligence** in not ensuring the tank and/or secondary containment was in good repair and in a condition that would preclude the release of petroleum fuel into the environment;



3. The seriousness of the violation; and
4. The risk to human health and the environment.

Therefore, the Administrator assesses one thousand dollar (1,000.00) 00 penalty per day per violation for Section 51110(a)(3) in the sum of one thousand dollars (\$1,000.00) for one (1) day in violation. You are presumed under the law to be able to pay the penalty under 10 GCA Chapter 51.

Additionally, and based on the aforementioned factors cited above, the Administrator hereby assesses a penalty of five thousand seven hundred fifty nine dollars and fifty cents (\$5759.50) per day per violation of Section 76105(a) and 76106(a) for one day in the sum of eleven thousand five hundred nineteen dollars (\$11,519.00) for the underground storage of regulated substances violations.

The penalty amounts are due and owing fifteen (15) calendar days from the date of receipt of this Administrative Penalty Order. The payment due date will stay upon the timely filing of a Notice of Intent to Appeal/Notice of Defense. Failure to comply with this Administrative Penalty Order may subject you to additional administrative penalties or civil or criminal actions as described above.

#### **NOTICE OF RIGHT TO APPEAL**

You may file within fifteen (15) calendar days from the receipt of this NOV/OC a Notice of Intent to Appeal, also known as a Notice of Defense, with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases. Attached is a copy of the Notice of Intent to Appeal/Notice of Defense.

Unless a written request for a hearing signed by you or on your behalf is hand-delivered or mailed to Guam EPA within fifteen (15) calendar days of receiving this NOV/OC, Guam EPA may proceed upon the NOV/OC/APO without a hearing.

As provided in 5 GCA §9205, a "Notice of Intent to Appeal, also known as a Notice of Defense, may be hand-delivered or mailed to the following address:

Guam Environmental Protection Agency Board of Directors  
c/o Administrator  
Attn: Air & Land Division  
Guam Environmental Protection Agency  
Building 17-3304 Mariner Avenue. Tiyen  
Barrigada, Guam 96913

If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA's Board of Directors shall hold a public hearing not more than sixty (60) calendar days after receipt of such Notice of Intent to Appeal/Notice of Defense. At this time, you may appear and present evidence in person or through counsel in support of this Petition.

Failure to file a Notice of Intent to Appeal and Verified Petition within the specified period will constitute a waiver of your right to a hearing. If you waive your rights to a hearing, the Order of

Compliance and Administrative Penalty Order will become final, and Guam EPA may proceed with the Orders without a hearing and further notice to you.

Should you have any questions regarding this notice, please contact Mr. Roland T. Gutierrez Jr. of the Air and Land Programs Division at (671) 300-4751 or by email at [roland.gutierrez@epa.guam.gov](mailto:roland.gutierrez@epa.guam.gov).

*Dangkolu na si Yu'us ma'ãse'.*

*Senseramente,*



WALTER S. LEON GUERRERO  
Administrator

Attachments: CEI Report  
Notice of Intent to Appeal

